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ABSTRACT

An analysis of the impact of state government regulation on higher education in California is presented. Two assumptions are explained on which the analysis is based; i.e., that the mission of higher education is teaching, scholarship, and service to the community and that public higher education is rightfully under the authority of the governor and legislature of the state. Possible objections to the second assumption are discussed and a third assumption is addressed--that there has been a sharp increase in the volume and techniques of state regulation in recent years. Ten techniques for regulating higher education, such as regulation of the structure and power of the governing boards, are listed. It is stressed that this trend is likely to continue and limitations in the regulatory techniques make it difficult for an elected official to effectively exercise responsibility for higher education. The consequences of regulation are examined and it is suggested that the thrust of the controversy over regulation should focus not on the authority of government to regulate, but on the manner in which the authority is exercised. Arguments for the delegation of authority are considered and means of that delegation to public higher education, while still remaining effectively accountable, are explored. (PHR)

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GOVERNMENT, QUALITY PROGRAMS AND EFFECTIVE RESOURCE USE IN HIGHER EDUCATION

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I. Introduction

My analysis of the impact of state government regulation on higher education in California begins with certain assumptions. These are not indisputable, and indeed some of them have recently been subjected to close scrutiny and sharp debate. In a short presentation, however, not every assumption can be considered in detail. It may be enough, therefore, to lay out in general terms the premises on which my analysis is based.

First, I assume that the missions of higher education are the traditional ones of teaching, scholarship, and service to the community. If universities have undertaken certain additional responsibilities in recent years, these new activities are not at the core of university work. Indeed, it may well be that taking on some of these new activities has been a serious mistake which dilutes the traditional and preeminent responsibilities of universities.

The simple statement of the traditional missions of universities raises the issue of how these missions are best accomplished. The most effective accomplishment of each mission requires wide elements of creativity and diversity within universities. At the simplest level, teaching styles differ widely. Some faculty are masters of the large lecture course. Others excel in small tutorials. Some who can scarcely speak before any group have a remarkable touch when working side-by-side with students in laboratories or studios.

Similarly, the overall balance of talents of any particular faculty member varies widely. Some professors are superior teachers and deeply committed to that work. Others make an important contribution to scholarship, thus providing the materials for the teaching mission as well as developing the new and applied knowledge that eases fear and solves problems for society. Some faculty people have a remarkable ability to carry the knowledge developed in universities into other forums by working with public and private institutions in the surrounding community or in the nation.

A more complex view of faculty work emphasizes that professors concentrate on different kinds of contributions at different times in a career. The most effective university performance depends on highly concentrated commitments to one mission or the other, temporarily at the sacrifice of the strongest commitment that could be made to the other missions. In certain periods a faculty member may teach large numbers of students or a broad array of courses as he or she experiments with new teaching modes, develops new areas of specialization, innovates with the curriculum, or gives full expression to new ideas, themes, or knowledge that have been slowly accumulating during a prior time of intensive study, reflection, or scholarly work. The same cyclical interest and activity characterizes scholarship and service.

It seems plain enough that the organization of the university should encourage diversity and creativity in faculty work patterns to take advantage of different styles of work, different talents, and cyclical commitments by faculty members.

A second assumption--and one which is perhaps more controversial in a conference dominated by academics--is that it is difficult to devise a sound theoretical basis for denying the authority of the Governor and Legislature to use a full panopy of regulatory methods to impose policy and fiscal restraints on public higher education and perhaps also on private higher education, to the extent that it has become fiscally a ward of the state. Let us dispose at the outset of two special objections that might be raised to this proposition.

First, a few public universities have special constitutional status which limits the authority of the executive and legislative branches to impose regulations. The University of California is such an institution. The California Constitution--in Article 9, Section 9--delegates to the Regents "full powers of organization and government" of the University and provides, moreover, that the University "shall be entirely independent of all political and sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs." Although there has as yet been no direct constitutional confrontation

between the elected branches, on the one hand, and the University, on the other, the thrust of related judicial decisions, opinions of legal counsel, and law review commentaries has been to give broad sweep to the autonomy conferred on the University by this language. Colorado, Georgia, Idaho, Michigan, Minnesota, Montana, Oklahoma, and Nebraska apparently also have varying degrees of constitutional protection of higher education. Although such special constitutional status does presumably limit the authority of elected officials, it is a theoretical anomaly. It creates a public agency which is not subject to any reasonable short-term authority of the people from whom it draws its existence. This special insulation from political control--which in a representative system of government is the essential means for holding those who exercise power responsible to those from whom power is derived--is difficult to justify. The fact of constitutional insulation should not be confused with the theoretical justification of it.

In rare instances the conflict between constitutional autonomy and popular control has been resolved by vesting the people with the power to elect regents of constitutionally autonomous universities. The University of Michigan stands as the leading example. Here the argument against executive and legislative authority is at its strongest, for the voters directly select alternative officials to govern a special constitutional branch of government, namely the University. Even in Michigan,

however, the Governor and Legislature retain the taxing and appropriating responsibilities. If one believes that responsibility for programs must lie in the same hands as the responsibility to tax and spend for the support of those programs, it follows that some authority over higher education--even where universities have special constitutional status--must continue to vest in the Governor and Legislature.

In any case, the special instances in which universities have constitutional status or in which regents are elected do not constitute a major feature of the higher education landscape in America. Generally public universities are creatures of statute. They are created by elected officials; their structure and governance mechanisms are the artwork of the legislative process; their programs are dependent on those who write statutory mission statements or make funding decisions; and both the level of their finances and the regulation of their spending practices are solely in the hands of elected officials.

This fact, moreover, is consistent with well developed American theories of representative self-government. Popular control over government is the bottom line of our political system, which recognizes the authority of citizens acting with equal standing as voters to select officials who will make decisions on their behalf and who can be held periodically accountable for those decisions at the polls. What claim can university

trustees or presidents or faculties make for their authority that is superior to the clear line of authority that travels from voters to the elected Governor and Legislature? Even if popular judgment is imperfect or official action is gravely flawed, the moral and political force of their claims to authority are preeminent. (Moreover, who can suggest that the judgments and actions of trustees, presidents, or faculties are more nearly consistent with wisdom than are those of voters and their elected officials?)

If I have belabored this point unduly, it is because the rhetoric of higher education policymaking so quickly slips into the error, implicit or explicit, that universities are or ought to be independent of governors and legislatures. In setting oneself to the task of describing the misshapen higher education policies that have increasingly become the product of state government deliberations, it is essential to avoid falling into the trap of arguing that state government is without the authority to enact such policies. The real issue, which is obscured only at higher education's peril, is the wisdom and efficacy of these policies, not the authority of state government to promulgate them.

My third assumption is that there has been a sharp increase in the volume and techniques of state regulation of higher education in recent years and that the underlying causes of this increase in regulation are numerous, complex, and continuing. As a consequence there will be little abatement

in the regulatory thrust of government. Later I will indicate my belief that the shape this regulation takes depends largely on what universities do and on what kind of leadership they recruit and sustain.

In a study that I conducted earlier this year, I catalogued the techniques of regulating higher education which have been used in California in recent years. I will mention these briefly here to make the point about the sharp escalation in regulation.

1. State government regulates the structure and power of higher education governing boards. In 1974 the Legislature successfully submitted a constitutional amendment to the voters reducing the length of Regents' terms from sixteen years to twelve. The explicit purpose was to reduce the insulation of the Board from gubernatorial and legislative control. Both the mandate and the composition of the California Postsecondary Education Commission have been repeatedly revised to increase the scope of its authority while diminishing the influence of higher education institutions on the Commission.

2. In addition to state government authority to name members of higher education governing boards, there has been a greater willingness in recent years to become directly involved in the

tenure of the chief officers of higher education. It is plain that Governor Reagan's insistence was a major factor in the dismissal of Clark Kerr. And in response to demands from faculty organizations during the 1974 campaign, Governor Brown indicated that he would like to see Glenn Dumke replaced as Chancellor of The California State University and Colleges System, a pledge as yet unredeemed.

3. California has shown a special penchant for higher education master planning. It is a mistake to consider the Master Plan of 1960 a singular event. Master planning in California has virtually been a continuous enterprise. In three decades there have been six major reports: the Strayer Report (1948), the McConnell Report (1955), the Master Plan Study (1960), the Unruh Report (1969), the Platt Report (1973), and the Vasconcellos Report (1973). The 1960 Master Plan made firm many of the arrangements already informally in place, and it added several important new dimensions. But each report has had some additional impact. The Vasconcellos Report had sweeping effects, with about forty of its forty-nine recommendations adopted. Master planning has been institutionalized with the statutory mandate to the Postsecondary Education Commission to develop a rolling five year master plan. In short, master planning is an ongoing device for state regulation of higher education.

4. The Legislature continues, of course, to make some higher education policy by statute. While the volume of statutory activity has not increased greatly, the import of statutory changes may be greater than formerly. One needs only to think about the implications of the Roberti Act relating to the confidentiality of personnel records, the statutory mandate that any lay-off of faculty must be taken in reverse order of seniority, and the new authorization of collective bargaining in higher education to appreciate the momentous magnitude of recent statutory policies.

5. The line item budget, a fiscal approach long since abandoned in the nation's most progressive states, encourages very intrusive state regulation of managerial decisions and does so often without any systematic relationship between budget line decisions and educational program needs or quality.

6. There has been an explosion in the supplementary budget language expressing intentions and recommendations of the budget conference committee. Although in a narrow legal sense this language is not binding, it is law in fact because of the political consequences that would flow from disregarding it. In 1965 there were no supplementary items pertaining to the CSUC system; in 1971 there were nine items; and in 1978 there were 34 such items.

7. State agency fiscal control is an important reality of life for higher education institutions in California. These controls include authority to decide whether funds may be transferred from one budget line to another, requirements that goods and services be purchased from state agencies regardless of their competitive cost, and provisions that state agency approval must be obtained for a wide array of purchases ranging from the ridiculous (selectric typewriters, telephone lines, office furniture) to the sublime (computer hardware).

8. Although audits are not inherently a regulatory device, in California they have come to serve that purpose. The California State University and Colleges System is subject to audit by as many as sixteen different state and federal agencies. A number of the state agencies regularly conduct partial fiscal audits. Accounting and fiscal regulations have not been properly defined by the various audit agencies, and there is no team concept for conducting audits. Finally, there has recently been a tendency for auditors to portray their findings in the way most likely to draw attention to them, probably to gain visibility for the audit agency and to enhance its ability to obtain additional resources. The imprecision of audit expectations, the number of audit agencies, and the apparent hidden agenda of audit report writing has put pressure on higher education managers to consult audit agencies in advance of acting.

An alternative strategy is to make no decision that might be criticized under any interpretation of the audit rules. The consequence is, of course, that the audit process sometimes involves pre-approval of management decisions and increasingly preempts management decisions, no matter how proper, that might be susceptible to an adverse audit report under any interpretation of the audit rules.

9. Informal budget controls have become very important in California in recent years. These informal controls range from the creation of highly artificial budget formulas by state agencies and higher education system offices, to letters of intent by higher education officials to legislative committees and informal (but virtually binding) written or oral advice that state agency staffers give to higher education managers. All of these devices are troublesome because they do not go through the usual legislative process and therefore are not subject to the scrutiny of elected policymakers.

10. Although legislative committee hearings cannot be described as regulatory devices in the most common meaning of that term, the particular use to which budget hearings have been put by Assemblyman John Vasconcellos probably qualifies them as a regulatory technique. The budget hearings have been converted from fiscal to policy hearings. This is possible in some measure because Vasconcellos simultaneously

chairs the higher education subcommittees of both the Assembly Education Committee and the Assembly Ways and Means Committee. Raising policy issues, often only tangentially related to the budget, at the Ways and Means subcommittee hearing does have the effect of implicitly threatening to make budget decisions turn on unrelated educational policy decisions. While there is no doubt about legislative authority in either of these areas, it is at least a reasonable question whether policy changes should be forced on universities by linking them to unrelated budget matters rather than considering them separately through usual legislative channels. Indeed, this question is made more pertinent by Legislative Counsel's opinion that it would be unconstitutional to attach policy riders to unrelated budget items. But it has been possible to compel higher education agencies to agree to policy changes by discussing those matters in the context of budget hearings with the implicit threat that the total budget will be reduced, rather than conditioned, unless policy is made to conform to the subcommittee's preferences.

Whatever may be the validity or usefulness of these various regulatory techniques, there can be no expectation that the impulse to regulate higher education, which has spawned these methods, is likely to abate. The causes of regulation are too numerous and complex to be wished away by the belief that they spring from the campus turbulence of the 1960's

and that they will disappear when those memories have faded. A straightforward listing of the primary causes of heightened state government regulation of higher education may suffice to make clear the inevitability of its continuation for the foreseeable future.

In its broadest conception the New Deal ~~has~~ had two distinct faces. It sought to aid the disadvantaged by vastly expanding the social welfare mission of government. Although the major increases in higher education funding did not occur until the 1950's and 1960's, they were nonetheless the legacy of New Deal aspirations. The second face of the Roosevelt Revolution was a vast increase in the regulation of private sector institutions that had accumulated enormous power. It seems inevitable in retrospect that as the social welfare thrust of the New Deal created enormously powerful public sector institutions, the regulatory techniques of the New Deal would be employed to impose restraints on the power concentrations thus created. As long as we continue to live in the New Deal tradition, universities can expect to find the vast power they have accumulated through government subsidy a spur to regulations aimed at constraining and circumscribing the use of that power.

Other causes of heightened regulation are more apparent. There is a strong public reaction against government spending and growth. This is oddly coupled with public insistence that no services now provided

be abandoned. Regulation is an inevitable, though probably mistaken, attempt by elected officials and their control agencies to save money while providing services. A related cause is the demand for accountability. While this is connected with the New Deal tradition and the public reaction against government growth, it has independent roots in the frustration of elected officials who must take responsibility for the conduct of government, on the one hand, but who find themselves with few tools to exercise that responsibility, on the other. As I will subsequently suggest, the regulatory techniques which have been adopted to make public agencies accountable probably do not give public officials the ability effectively to exercise their responsibilites.

Closely related to public officials' concerns about how to meet their responsibilities are the personal philosophies of legislators and governors. While it would be a mistake to overstate the importance of personal philosophy, it has been an even greater mistake for those in higher education to give too much credit to political motives in the attitudes of officials toward higher universities. Such diverse figures as Ronald Reagan, Jerry Brown, and John Vasconcellos are best understood by examining the links between their ideological predispositions and their posture toward higher education.

If much of the thrust toward regulation must be understood as stemming from public and official attitudes, universities have also contributed substantially to that thrust. There is a much greater tendency than previously for each university constituency--faculty, students, administrators, and often alumni--to approach state government with separate and often conflicting agendas. State government has been repeatedly invited to intervene in the affairs of universities, and those who extend the invitation should be little surprised when their guest stays around to involve himself in matters quite separate from those which prompted their initial hospitality.

The Master Plan for Higher Education, in large measure a child of the higher education systems themselves, has spurred conflict which has continually needed state government intervention. The university systems have, for example, been reluctant to concede to community colleges the primary responsibility for the first two years of university training or for nondegree learning. The University of California and The California State University and Colleges have engaged in recurring disputes about institutional titles (state colleges or state universities?), missions (should research be encouraged or funded in state universities?), and degree authority (should the state universities expand their joint doctoral authorization to include degrees with private universities?). These intersystem disputes have often been carried into the Legislature by one or another of the contending parties.

Finally, of course, some regulation has been spurred by dubious practices in universities. The flexibility in faculty work schedules has produced a somewhat greater number of highly visible examples of abuse than might occur in civil service agencies of state government. These range from sweeping involvement in outside income-producing activities to sloppy teaching, very low teaching loads in some institutions, unavailability to students, and class schedules designed to minimize presence on campus. In most agencies, managers would quickly curb these practices. But it is more difficult in universities, where flexibility is a handmaiden of creative work and where work practices must differ widely to attain appropriate goals. To the extent that neither higher education leaders nor faculty bodies restrict bad practices, because of a fundamental confusion between flexibility which facilitates ascertainable educational results and an exaggerated view of faculty "rights," they have contributed ammunition to those whose potshots at university practices have found easy targets in existing conduct.

The Consequences of Regulation

The impulse to regulate is unlikely to abate. And creative imagination in devising regulatory techniques seems unbounded. As grim as these prospects are, it is difficult to elaborate a persuasive theoretical challenge to the authority of the Executive and Legislature and their delegates to

regulate public higher education in a system of representative government. The controversy about regulation should, therefore, be set at a lower level of abstraction. The issue is not whether the authority of elected officials is legitimate. Rather, it is, first, whether higher education services will be more efficiently delivered to the public if substantial delegations of operating authority are made to universities. Second, can public officials and the public be persuaded that the quality and scope of higher education services will be enhanced by relatively broad delegations to universities? And, third, can means be found for holding public universities and colleges ultimately accountable to the Governor and Legislature if the regulations which are applied to other state agencies are foresworn in the instance of higher education?

I conclude that a strong case can be made for all three of these propositions, but the latter two will require substantial changes in the way that higher education presently conducts its affairs. Before turning to those issues, however, it is useful to recite briefly the strongest arguments for the proposition that wide delegations are a concomitant to the most effective delivery of higher education services. First, the traditional argument that academic freedom is essential to the development of new knowledge, to the testing of that knowledge, and to the instruction of students has enormous force. It has become widely accepted in our society; and it should be noted that in California's highly polarized politics there have

been virtually no serious government threats to academic freedom in recent decades. Neither ideological governors like Reagan and Brown nor ideological legislators like Vasconcellos have seriously proposed restrictions on the freedom of faculty to think, study, write, and teach.

The serious claims for restricting speech and thought have largely been advanced from within universities, by "radical" students and their faculty allies and in some cases by academic administrators who were ideologically conservative or cowardly in facing public criticism of student and faculty protests. Those in state government who have recently cried most loudly for additional regulation of higher education are largely from the liberal end of the political spectrum and mainly from the Democratic party. These same people are most likely, however, to insist on freedom in matters of expression and belief.

Second, fiscal regulations in California have now become so draconian that it is possible to show that procedures intended to save taxpayer dollars actually raise higher education costs. Examples will suffice. The state printer's monopoly on bookbinding and printing costs the state's universities more than would similar services provided by private local vendors. The purchase of automobiles through the General Services Administration is more expensive than the lease or purchase of cars from private concerns. The mandatory "copier plan" imposed by the Office

of Product Services has actually increased the dollar outlays for the duplication of instructional materials. Changes in state regulations have required universities to abandon serviceable equipment because it does not meet new "standards."

The review of purchases and service contracts at three or four different levels of the university and state government hierarchies not only is costly in staff time, but it often results in delays which force purchases to be made at prices which have been increased to respond to inflation, new production costs, and so forth. Multiple audit agencies deprive public higher education of effective and consistent fiscal, management, and program advice; and they are costly because of the inordinate amounts of staff time spent conforming to shifting or conflicting audit directives.

Higher education administrators must approach the fiscal argument in good faith, however. Most discussions of costly regulations very quickly stray from purchasing, auditing, and so forth to the price tag attached to affirmative action rules, to regulations assuring access to handicapped persons, and to other policies whose purpose is not primarily fiscal control. These complaints obscure the issues and are counterproductive. Universities, like other public and private institutions, will be required to pay the price for social policies; and it seems inconsistent with professed goals of public universities to oppose on fiscal grounds policies which promote broader access to higher education.

The motives of universities are called into question when they use cost justification to argue that they should be exempt from general societal policies. The argument against expensive regulations has force primarily as it applies to rules whose purpose is to save taxpayer money. The argument against fiscal regulations must be that the public is receiving lower quality and narrower educational offerings than they are paying for because fiscal regulations intended to save money have the opposite effect.

There is, third, a strong case to be made that wide delegations of authority are appropriate in higher education because of the elements of creativity and diversity in the missions of universities. If the previous analysis about diverse faculty abilities and university missions is a commonplace for many, it has largely been lost in the structuring of the statutory higher education system in California. The CSUC Chancellor's Office in collaboration with the executive and legislative control agencies has built a series of workload formulas which circumscribe the effective use of varying faculty talents and which, perhaps more seriously, corrode the will and desire of universities to pursue their tripartite missions of teaching, scholarship, and service.

The prescription of "twelve weighted teaching units" for every faculty person prevents any substantial variations in workload to recognize special contributions to scholarship or community service or to acknowledge cyclical patterns in faculty attention to the University's several missions. Perhaps more troubling, the creation of formulas which prescribe the size of certain types of classes thwart creative variations in teaching style. This has its greatest impact on the most heavily subscribed courses and programs, in which many sections of the same courses are offered. Under typical circumstances, all must be classified in the same way, creating the expectation and perhaps the rule (depending on which audit agency studies the enrollment patterns) that all sections in the same course matter must be taught in groups of the same size and in roughly the same format. It prevents an academic department or dean, for instance, from offering introductory political science in groups ranging from tutorial size to large lectures, according to the talents of particular faculty people and the interest of students in various learning modes.

Such workload measures also have implicit consequences. In some institutions the extent to which courses achieve their formula enrollments is taken as a measure of "productivity" and workload. A lecture course in Shakespeare may very well be undermined by this system; in periods when the number of English literature majors declines or in institutions with a strong technical or professional emphasis, enrollments in courses

on the Bard are likely to be low. The faculty person offering such courses may then be viewed as insufficiently productive, the course may be viewed as unwanted, and the decision can then be taken to offer the course only infrequently. Yet there is wide agreement among the liberally educated that Shakespeare is an essential offering for interested college students, no matter how small their numbers.

An even more pernicious consequence of workload formulas is the expectation created among the faculty. A workload of four courses of a certain size and proportion becomes the full definition of professorial performance. Not only are the scholarly and service missions eroded, because they cannot easily be fitted to such workload formulas, but the quality of instruction is implicitly sacrificed to quantitative "productivity," which can be measured in terms of courses, hours, and enrollments and which can be computer audited by control agencies. Finally, the quantitative specification of faculty workloads ignores the cyclical nature of human performance. It prevents a faculty person from concentrating on different kinds of contributions at different times in a career. Yet effective university performance depends on highly concentrated commitments that go well beyond a prescribed work week and which are, moreover, characterized by very intense periods of activity.

Budget formulas are a further example of regulations which thwart diversity and quality in education. More than three hundred formulas have been devised by state control agencies for The California State University and Colleges System. The University of California, because of its special constitutional status, is not so heavily formula driven, although the amount of its appropriation may be calculated by formula. Initially it was understood that although funds are generated by formula, discretion lay in the Chancellor or in campus presidents to reallocate funds according to their assessments of need and quality.

Formulas, however, tend to take on a life of their own. They create pressures for rigidity. When a particular campus constituency does not receive the full amount generated by formula, because the president selected to make alternative program decisions with those funds, it immediately demands to know where "its" funds have gone. Since the constituency can point to the formula, this creates an impression that funds are somehow being improperly applied on campus and throws university administrators on the defensive. There is, therefore, an implicit pressure to use the funds as they are generated, regardless of how inappropriate this may be for the educational program of the campus.

There has been, moreover, in recent years a tendency for state control agencies or the CSUC System office to yield to pressures from campus

constituencies which insist that controls be imposed to assure them "their share" of funds generated by formula. Several years ago a number of faculty positions were diverted to administrative duties (such as department chair activities) on several CSUC campuses; since that time the Budget Act has required that all faculty positions generated by formula be used for classroom instruction. Equal Opportunity Program funds are similarly restricted, as a result of pressures from minority groups and the campus managers of those programs. In 1978-79 the formula-generated funds for library books cannot be used for any alternative purpose, even within the library itself.

Since campuses have widely different educational programs, their needs are quite different. The most glaring example is a rule that each faculty position generates .22 of a clerical/technical position. The merging of clerical and technical support into a common line makes little sense. Campuses with vocational, technical, laboratory, and studio programs must forego clerical support for faculty in order to provide the technicians needed by those programs. Liberal arts campuses are, by contrast, very generously staffed with clerical positions.

Moreover, the formulas generate resources without regard to qualitative differences between programs. As funds are increasingly restricted to uses dictated by formula, the ability of campus officials to support high quality programs or specialized programs is eroded. And plainly such a budget trend precludes campus administrators from following a well-understood higher education strategy of investing funds in "targets of opportunity" by giving richer support to promising or high quality or high need programs than to others which are unlikely to grow or to be excellent.

This observation leads to a fourth substantial argument against the kind of extensive state regulation of higher education that has become a commonplace in the CSUC, that has been suggested for the University of California by control agencies and the Legislature, and which already exists in some measure in community colleges and is likely to become even more prevalent there as increased state funding makes them indistinguishable from other state agencies. Effective administration in higher education is difficult to sustain in a milieu of sweeping state regulation. Indeed, it may be implied in California that very little is expected from university administrators, since the scope and detail of state regulation is apparently intended to leave little discretion for governing boards, system executives, or campus administrators. Oddly, it is precisely in such circumstances that strong administration

is needed. Faculty and students expect accommodation of the creative and diverse aspects of higher education, and campus administrators are therefore charged with the dual tasks of restraining such accommodations when they are plainly prohibited by state regulations and of identifying or devising ways in which activities apparently restricted can be supported by indirection.

University administration is very different in the constitutionally autonomous University of California and in the closely regulated California State University and Colleges. One difference is, or course, inherent in the Master Plan. As the state's research institution, the University of California has little difficulty recruiting high quality administrators on its various campuses. The State University and Colleges, on the other hand, would rarely be regarded as a prestige assignment for an ambitious university manager.

A second difference is more closely related to specific state regulations. The University of California has flexibility to set salaries at a competitive level. The CSUC salaries have long been subject to legislative restriction. Experience in the CSUC shows that candidates for deanships and vice presidencies often withdraw from consideration when they learn that low advertised salaries are not negotiable.

While there is considerable administrative stability in the University of California, there is rampant instability in the CSUC. One staff person in the Chancellor's Office reported that the average service of deans in the system is about four years. An academic vice president entering his third year of service observed that he was rapidly approaching the mid-range in seniority among his colleagues on the nineteen campuses. Only part of this turnover is attributable to prestige and salary. The tight network of rules and regulations makes administration highly frustrating. Moreover, academic administrators find their hands tied in many areas, so that they cannot facilitate faculty and program needs. The imbalance between regulation and facilitation hurries them into conflict with faculty and this conflict has been so persistent and endemic in the CSUC that it has hindered the development of quality programs.

High turnover and conflict take a toll on the instructional program. There is little continuity in policy as academic administrators change. There is much less collaboration between faculty and administration than would be desirable. Most CSUC campuses have never developed strong mechanisms for faculty consultation; and most faculties in the system have not been able effectively to develop patterns of responsibility and self-regulation because of inconstant relations with administration and because faculty leaders have found it difficult to give their attention to self-regulation while engaged in constant battles against state-imposed and administration-enforced rules.

Administrative turnover has probably resulted in too many new program starts as campus aspirations have been revised by successive presidents, vice presidents, and deans. At the same time, program quality has probably been stunted because there is little continuity of administrative support or commitment to programs begun under prior leadership. In short, the administration of CSUC campuses is deeply affected by the extensive state regulations. Resource management, program development, and faculty morale and responsibility are all adversely affected by the difficulty of recruiting and retaining able administrators and by the imbalance between rule enforcement and program facilitation in the work of campus managers.

In Conclusion: Delegation Rather than Regulation?

Finally there is the question whether means can be found to hold public higher education accountable to the Executive and Legislature without the extensive regulations that have been imposed on the CSUC and which will be extended to the University of California if the shield of constitutional autonomy can be breached. It is appropriate at the outset to indicate sympathy with much of the suspicion directed toward evaluation systems that are used in elementary and secondary education as well as those often proposed for higher education. Most of these systems evolve in quantitative directions. Either evaluation tends to emphasize those aspects of education which can be quantified--such as student/faculty ratios, faculty contact

hours, and so forth--or it creates quantification where it should not be used, often by the assignment of arbitrary weights to qualitative, and therefore partly subjective, judgments. Universities themselves have inadvertently spurred these trends. The spread of quantification in schools of education and in the social sciences has not been kept within reasonable bounds; the over-emphasis on computer and statistical tools has spawned scientism instead of science. These methods have been picked up by state control agencies, many staffed by young people trained in university programs that teach quantitative evaluation. Higher education should resist this kind of evaluation because it substantially distorts the goals of universities.

Beyond resistence to purely quantitative evaluation, however, universities have a poor record of devising alternative means by which they can be held accountable and of opposing reasonable, if imperfect, methods that have been suggested. The former point may be politically the more important. Nothing seems to provoke the suspicion of state officials as much as the insistence of universities that appropriate techniques have not been devised to assess the quality, effectiveness, and consequences of higher education programs. These assertions seem improbable coming from institutions which portray themselves as critics of society, whose departments and disciplines are deeply engaged in developing evaluation methods for other private and public organizations,

and whose individual faculty sometimes command substantial consulting fees (not occasionally from state agencies) to serve as evaluators of public services.

Standing by itself, the assertion that universities, which have mounted massive research programs into most aspects of American life, do not know how to evaluate their programs in ways that can be explained to public officials and the public is a serious self-indictment. It puts the lie to university assertions that they are responsibly self-regulating. And it is an invitation for state agencies to use their own control devices, since it can hardly be asserted that public officials responsibly conduct their duties if they neither control nor evaluate expenditures of public money.

Opposition to plausible, if imperfect, evaluation techniques is frequent enough to feed the sentiment that universities are arrogant and irresponsible. In recent years state governments have forced most regulated professions to include public members on licensing and examining boards; university faculties mainly resist the service of non-university members on faculty or administrative search committees and on program evaluation teams. The CSUC Trustees recently mandated program evaluation for the system's nineteen campuses, but faculty organizations on many of those campuses oppose the inclusion of faculty from outside the system on program review

teams. Similarly, CSUC faculty organizations have opposed required external reviews of faculty credentials in tenure and promotion decisions. They were instrumental in obtaining passage of legislation denying confidentiality for outside evaluators. The University of California, by contrast, has used outside evaluations in promotion cases for many years; and as was previously indicated, it was preparing to litigate the constitutionality of legislation lifting the confidentiality of evaluators, until recent legal interpretations gave the law a different and less restrictive meaning.

The continuing controversy over teaching evaluation is another pertinent example. University faculties have largely resisted the use of student evaluations, and an enormous debunking literature has grown up. At the same time, faculties have been reticent about peer visitation; and at the extremes it has been asserted that visitation is an infringement of academic freedom. Even after governing boards mandated some student evaluation, individual faculty members and some departments simply resisted the requirement or, alternatively, gave no weight to the information collected. Most faculty spokesmen are unable to specify the manner in which instructional effectiveness is being evaluated for purposes of tenure, promotion, and merit pay decisions.

A similar problem arises in explaining workload variations. It quickly becomes apparent in the University of California that teaching loads, measured by course contact hours, tend to become standardized within departments. This is, of course, contrary to assertions by higher education spokesmen that the diversity of talents of faculty and their varying interests over time require flexibility in teaching assignments. It also cannot be verified that all faculty are uniformly involved in the programs of research and service that justify substantially lower teaching loads in the UC than in the CSUC. Since there is little tendency for department chairs or deans to assign variable workloads based on the assessment of faculty interests, accomplishments, and activities, it is not at all odd that state officials deem uniform workload regulations appropriate.

These examples could continue at some length. What they point out, however, is that in those areas of greatest visibility and concern to public officials and the public, universities simply cannot articulate the evaluation methods they have purportedly devised and/or adopted. Yet the willingness to specify and employ methods of self-evaluation that can be audited by state agencies is at the heart of any argument for the wide delegation of authority to universities. It is almost inconceivable that any other public agency would request that elected officials provide a budget and a program mandate and then would assert that state government should neither prescribe rules for the conduct of the program nor rigorously

hold the program to an agreed set of objectives and methods for assessing the agency's accomplishment of those objectives. In the long run, as California well illustrates, higher education also cannot successfully adopt such a strategy.

If there is any wisdom in the suggestion that universities specify carefully their objectives, the manner in which they will assess progress toward those objectives, and their success in reaching those objectives and that state officials, in response, delegate broadly to universities to conduct their affairs, it is also true that traditional academic leadership is poorly suited to conceive or to carry out the university side of such an arrangement. University administrators too often take the attitude that higher education is "not just another state agency" and that state officials have no "right" to insist on accountability. Moreover, there is too much truth in the sentiment among politicians that higher education is arrogant in its pretensions and manner. The claim of many faculty that their work is subject to no review, although rarely true in practice, is implausible and tends to rile those charged with levying taxes to support that work.

Academic leaders tend to be captives of faculty constituencies. They are more likely to be brought down by opposition from academic senates than from state senates. At least they can join the campus outcry when unpopular

decisions are made by state officials; if they make such decisions themselves, it is difficult to point the finger elsewhere. In such a posture it is impolitic for academic administrators to balance the legitimate concerns of state officials for economy, effectiveness, and accountability in universities against the needs for flexibility, diversity, and ~~creativity~~ Creativity in conducting the tripartite missions of higher education. Most administrators are, moreover, selected for the wrong reasons--primarily acceptability to campus constituencies and for academic accomplishments.

What is probably needed in contemporary circumstances are academic leaders who understand in their guts as well as their heads the forces that drive state officials toward more regulation and who, at the same time, understand and distinguish between the needs and the pretensions of university faculties. They ought to be able to face both ways by explaining the needs of higher education and the devastating effects of excessive regulation to public officials without opposing reasonable processes of review and accountability that will assure state government of sound fiscal practices, of program and faculty quality, and of sufficient services to students and the community. This may require of higher education leaders the will and ability to speak to the respective constituencies inside and outside the university rather than speaking for their internal constituents.

Persuading public officials and the public generally that the quality and scope of higher education services will be enhanced by broad delegations to universities will require, in short, rather sweeping changes in the selection and the role of academic administrators. These changes must at least be supported and indeed may necessarily be instigated by higher education governing boards. The recent tendency in California to select Trustees and Regents who directly or indirectly represent the views of internal higher education constituencies--such as students, faculty, and alumni--substantially diminishes the prospect that governing boards will initiate such changes in the role of academic administrators.

There are ironies aplenty in the modern condition of higher education. The most effective providing of high quality educational programs is thwarted by the regulations imposed by public officials who are insisting that such regulations will produce cost-effective, high quality programs. At the same time, the delegations to higher education that are needed to assure the highest quality programs can only be achieved under conditions of accountability unlikely to be initiated by academic administrators selected by the narrowly constituency-oriented trustees and regents that public officials themselves have recently favored for appointment. Similarly, recognition of the diversity and creativity of faculty work cannot be achieved under present regulatory systems; yet faculty resistance to appropriate programs of university-devised and enforced accountability, managed by more independent academic

administrators, leaves no alternative for public officials than to increase both the scope and velocity of present regulatory trends.

Short-term and narrowly defined conceptions of interest triumph over longer-term and larger understandings of the university's missions and responsibilities. In most contemporary universities, unlike the general society, there are no independent sources of political leadership that may occasionally divert the focus from narrow constituency interests to the larger goals and broader conceptions of interest. Without such leadership, universities appear more and more to be institutions committed to "business as usual." And the model of delegation and accountability is unlikely, therefore, to be accepted by public officials, rightfully exercising their authority, in place of the model of regulation and control. The formula has not yet been devised in higher education for reversing these trends, and the burden for creating such a formula and for persuading university constituencies to accept it plainly falls on educational leaders, especially trustees and regents who have the formal authority to reverse both existing methods of selecting administrators and existing operating practices.

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